

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CAROLYN SIOUX GREEN,

Plaintiff,

V.

UNITED STATES OF AMERICA, et al,

Defendant.

CASE NO. 2:21-CV-1276-RAJ-DWC

**ORDER GRANTING LEAVE TO
AMEND AND GRANTING REQUEST
TO STRIKE**

Plaintiff Carolyn Sioux Green, proceeding *pro se*, filed this action alleging violations of her constitutional rights. *See* Dkt. 1. The District Court referred this action to United States Magistrate Judge David W. Christel. Dkt. 8. Currently before the Court is Plaintiff's Motion to have First Amended Pleadings Made Operative ("Motion to Amend") and Motion to Strike Dkt. 22. Dkt. 19, 26. After review of the record, the Motion to Amend (Dkt. 19) and Motion to Strike (Dkt. 26) are granted.

I. Motion to Amend (Dkt. 19)

On October 18, 2021, Plaintiff filed an Amended Complaint. Dkt. 17. Plaintiff filed the Motion to Amend the next day, on October 19, 2021. Dkt. 19. In the Motion to Amend, Plaintiff

1 requests the Court accept her Amended Complaint as the operative complaint in this case. *Id.*
2 She states the Amended Complaint “is mostly a reconfiguration of the initial pleadings with
3 additions seen in the New Table on (sic) Contents.” *Id.* at 1.

4 Pursuant to Rule 15(a)(1) of the Federal Rules of Civil Procedure,

5 A party may amend its pleading once as a matter of course within:
6 (A) 21 days after serving it, or
7 (B) if the pleading is one to which a responsive pleading is required, 21 days after
service of a responsive pleading or 21 days after service of a motion under Rule
12(b), (e), or (f), whichever is earlier.

8 Plaintiff has not previously amended the Complaint in this case. Further, no defendants have
9 entered an appearance, filed a responsive pleading to the Complaint, or filed a motion under Rule
10 12(b), (e), or (f). Therefore, Plaintiff has the right to amend her Complaint as a matter of course
11 pursuant to Rule 15(a)(1)(B). *See Trudeau v. Direct Marking Concepts, Inc.*, 90 Fed. App’x 486,
12 488 (9th Cir. 2003) (finding the plaintiff was allowed to amend his complaint as a matter of right
13 when the motion to amend was filed before the defendant filed a responsive pleading).

14 Accordingly, Plaintiff’s Motion to Amend (Dkt. 19) is granted.

15 **II. Motion to Strike (Dkt. 26)**

16 In the Motion to Strike, Plaintiff states she incorrectly filed a supplement to the Amended
17 Complaint when she intended to file a praecipe to the Amended Complaint. Dkt. 26. Plaintiff
18 requests the Court strike the incorrect filing at Docket Entry 22. Plaintiff’s Motion to Strike (Dkt.
19 26) is granted. The Clerk is directed to strike Docket Entry 22 as it was entered in error.

20 **III. Directions to Plaintiff**

21 The Court notes that Plaintiff has filed two praecipes and a supplement to correct her
22 Amended Complaint. *See* Dkt. 18, 22, 27. For clarity, Plaintiff is directed to file a corrected
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1 amended complaint as a single document that includes all corrections previously filed with the
2 Court. Plaintiff shall file the corrected amended complaint on or before December 3, 2021.

3 Dated this 24th day of November, 2021.

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6 David W. Christel
7 United States Magistrate Judge

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